

## REMARKS

Applicant respectfully requests reconsideration and allowance of all pending claims in view of the following remarks. If the Examiner believes the above amendments do not place the application in condition for allowance, Applicant respectfully requests a telephone interview with the Examiner to discuss the claim wording in view of the cited reference.

### I. CLAIM REJECTIONS – 35 USC §102

Claims 17-31 were rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Moles et al., U.S. Publication No. 2002/0072359 (“Moles”).

#### A. **Position of the Examiner**

In the previous Office Action, the Examiner estimated that claims 17, 30 and 31 were not new in view of Moles et al.

Concerning claim 17, the following chart sums up the position of the Examiner:

Essential characteristics in claim 17	Corresponding elements in the document Moles et al. (according to the Examiner)
<i>A method for analysing the operation of a radiocommunication terminal according to a predetermined radiocommunication protocol, the method comprising the following steps:</i>	<b><i>Cf. [0018]: “it is a primary object of the present invention to provide a mobile station diagnostic testing system for use in a wireless network”</i></b>
<i>receiving by said radiocommunication terminal an analysis scenario and/or analysis parameter;</i>	<b><i>Cf. [0018]: “transmitting <b>the mobile station diagnostic testing file (330)</b> to the first mobile station (MS) “</i></b>
<i>transmitting from said radiocommunication terminal data representative of at least one operation to be analysed to a remote analysis device, via a connection according to said predetermined radiocommunication protocol, subsequent to said step of receiving ; and</i>	<b><i>Cf. [0028]: “transmitting to the wireless network a <b>reverse channel notification message</b> notifying the wireless network that <b>a fault has been detected in the mobile station</b>, wherein receipt of the reverse channel notification message is capable of causing the wireless network to <b>transmit the mobile station diagnostic testing file to the mobile station (330)</b>.”</i></b>
<i>analysing of the transmitted data</i>	<b><i>Cf. [0067]: “OTAMD server 160 <u>receives the</u></i></b>

<i>representative of said at least one operation by the remote analysis device.</i>	<i><b><u>diagnostic testing request message</u></b> from MS 112 and builds MS 112 diagnostics testing file 330. OTAMD server 160 <b><u>uses manufacturer and model identification information included in the diagnostic testing request message</u></b> transmitted by MS 112 to determine the correct interpreted bytecode application program 331 and diagnostics data file 332 to include in MS 112 <b><u>diagnostics testing file 330</u></b>”</i>
---	---

In response to this Office Action, Applicant explained the inconsistency from a temporal point of view of the cited paragraphs.

In the present Advisory Action, the Examiner modifies his interpretation of Moles et al., especially on one step of claim 17. Now, he estimates the following correspondence exists:

Essential characteristic in claim 17	Corresponding element in the document MOLES et al. (according to the Examiner)
<i>receiving by said radiocommunication terminal an analysis scenario and/or analysis parameter;</i>	<i><b>Cf. §0066:</b> « a user of the mobile station may notice something wrong and then select a diagnostic testing option in a menu display »</i>

The Examiner estimates that claim 17 is still not new in view of Moles et al.

#### **B. Novelty of Claim 17 In View of Moles et al.**

The content of the document Moles et al. is already explained in Applicant’s responses to the previous Office Actions, which are not repeated herein. Applicant refers the Examiner to the prior responses.

Applicant agrees that, by modifying the Examiner’s interpretation of Moles, the inconsistency (from a temporal point of view with respect to the user’s input) has vanished.

However, the new paragraph cited by the Examiner (para. [0066]) only describes that a user can select an option on the display of the mobile device (MS) in order to perform a test diagnostic. When the user does that, a request is sent to a remote server in order to obtain a diagnostic testing file (cf. para. [0067]).

As the user selects (manually) a testing diagnostic option, the Examiner estimates that the mobile device (MS) receives from a user an analysis parameter, and that therefore the following characteristic of Applicant's claim 17 is disclosed: "*receiving by said radiocommunication terminal an analysis scenario and/or analysis parameter*".

In order to emphasize the difference between the claim 17 and the Moles et al. document, the Applicant amends claim 17 to clarify that the mobile device / or radiocommunication terminal receives data (*analysis scenario and/or analysis parameter*) from a remote analysis device and not from a user. Moreover, it is the result of the execution of the analysis scenario and/or analysis parameter (or the result from some intermediate operations), which is sent and analyzed by the remote analysis device.

As explained previously, when looking at the communications between the server and the mobile station of Moles et al., there is a temporal inconsistency created when attempting to read these communications onto the elements of Applicant's claim 17.

Since Moles et al. do not disclose the combination of elements recited in claim 17 or provide any reason for a person or ordinary skill in the art to modify Moles et al. to incorporate such elements, amended claim 17 is new and not obvious in view of Moles.

Similar argument apply to independent claims 30 and 31 and to the claims dependent on claim 17.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: /David D. Brush/

David D. Brush, Reg. No. 34,557

900 Second Avenue South, Suite 1400

Minneapolis, Minnesota 55402-3319

Phone: (612) 334-3222 Fax: (612) 334-3312

DDB:dme